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09/153,369	09/15/1998	JAMES P. KETRENOS	INTL-0075-US	5432

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HOUSTON, TX 77057-2631

EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/153,369

Applicant(s)

KETRENOS, JAMES P.

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-33 and 35-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-33 and 35-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/16/06 have been fully considered but they are not persuasive.

Applicant argues that the office action relies on an unwarranted construction of the meaning of a crash. The reliance on wikipedia is misplaced and improper. The sources used in wikipedia are of doubtful authority. Anybody can go in and change wikipedia entries. (page 8).

The Examiner assumes applicant means wikipedia rather than wikopedia. The Examiner recognizes that due to wikipedia's collaborative nature anyone can make changes to an article. The Examiner notes however, the webopeida.com was utilized (not wikipedia.org or wikopedia) for its definition of a "crash". Webopedia does not have the same collaborative functionality as "wikipedia" and the definitions can not be changed by any member of the public and therefore the definition is proper.

Applicant argues that the Safadi reference attempts to detect tampering not crashes and that references which teach taking action in the case of software errors, that do not amount to a crash are immaterial to the claimed invention. Applicant further argues that Safadi has nothing to with a video stack or shutting down a video stack. (page 8).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Examiner notes that Semenzato is relied upon to teach shutting down a video stack.

Further,

<http://webopedia.com/TERM/c/crash.html> defines a crash as "(n) A serious computer failure. A computer crash means that the computer itself stops working or that a program *aborts* unexpectedly. A crash signifies either a hardware malfunction or a very serious software bug."

With regards to the Safadi reference, applicant is focusing on "tampering" while ignoring the transmission errors or indeed any other deviation, which causes the abnormal state that, results in the computing device to stop working. Further, Safadi does not limit this abnormal status to be the result of either tampering or transmission errors, rather the device is shut down as the result of failing a checksum check. The Examiner equates these errors, abnormal state, and shutting down to meet the above definition of a crash in that it includes monitoring the bios, memory, etc against precalculated values, finds a value in error and the computer itself stops working unexpectedly.

Therefore it is the combination of Semenzato, Hullinger and Safadi which teach each and every element of claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 6, 8, 9, 12-14, 18, 20, 26, and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,903,728 to Semenzato in view of U.S. Patent 6,295,092 to Hullinger and U.S. Patent 6,256,393 to Safadi.

Regarding claims 1, 9, 13, 26, 30-32 Semenzato discloses a method for accessing a video stream comprising:

When a first application (plugin) requests video, initializing the video stream from a video server (column 7, lines 36-43),

Providing the video stream for the first application ((column 7, lines 36-43, column 9, lines 7-21),

Monitoring to detect if the first application crashes while receiving the video stream (status messages between the first and second applications, column 7, lines 20-23, column 8, lines 3-43),

If the first application crashes maintaining access to the video stream for a second application (web browser) through the video server (column 8, lines 17-21, column 9, lines 12-20, column 10, lines 5-18, plugin body 114B saves in persistent memory and data in which plugin body 114B may invoke in subsequent invocations).

Semenzato fails to disclose shutting down a television tuner card when a crash is detected.

Hullinger discloses a personal computer which includes a TV tuner and video capture card which compress broadcast video into MPEG 1 video streams (column 3, lines 5-46) this data is then transmitted to a server 20 along with Nielsen ratings (column 3, lines 46-column 4, line 2) so that a user may access the competitiveness of different broadcasters in the area and review the programs at time of the users own choosing (abstract, figures 11-12).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Semenzato to include a video capture board and tuner card in a user's PC as taught by Hullinger, so that a user may access the competitiveness of different broadcasters in the area and review the programs at time of the users own choosing.

The combination of Semenzato and Hullinger fails to disclose shutting down a computer peripheral when a crash is detected.

Safadi discloses a computing device which performs periodic background checks of the software object memory, finger print, bios, operating system etc, against pre-calculated and protected values for each, if the check fails the computing devices are shutdown (column 9, lines 5-64) in order to prohibit unauthorized access of content.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Semenzato and Hullinger to utilize the error and crash detection features of Safadi to prohibit unauthorized access to content.

Regarding claims 2 and 14, Semenzato discloses detecting when the first application fails (column 7, line 35-column 8).

Regarding claims 6 and 18, Semenzato discloses that the plugins are run as separate processes and are stored in different memory spaces (Figures 2C and 3, column 6, lines 43-64).

Regarding claim 8, Semenzato discloses that the plug in applications are responsible for accessing the video server (column 7, line 35-column 8, line 43, column 9, lines 4-45). The video servers disclosed in Semenzato inherently contains software for accessing the video stack, as without such software, no data could be transferred between the server and a client application.

Regarding claim 12, Semenzato discloses a method for accessing a video stream comprising:

When a first application (plugin window) requests video, initializing the video stream from a video server (column 7, lines 36-43),

Providing the video stream for the first application ((column 7, lines 36-43, column 9, lines 7-21),

Monitoring to detect if the first application crashes while receiving the video stream (status messages between the first and second applications, column 7, lines 20-23, column 8, lines 3-43),

If the first application crashes maintaining access to the video stream for a second application (web browser window) through the video server (column 8, lines 17-21, column 9, lines 12-20, column 10, lines 5-18, plugin body 114B saves in persistent memory and data in which plugin body 114B may invoke in subsequent invocations)

Operate a first window in the application for accessing the television server and a second window in the server for accessing a video stack (When a video window process is deleted, access to the motion video stream is maintained for a new window column 9, lines 12-20, column 10, lines 5-18).

Semenzato fails to disclose shutting down a television tuner card when a crash is detected.

Hullinger discloses a personal computer which includes a TV tuner and video capture card which compress broadcast video into MPEG 1 video streams (column 3, lines 5-46) this data is then transmitted to a server 20 along with Nielsen ratings

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(column 3, lines 46-column 4, line 2) so that a user may access the competitiveness of different broadcasters in the area and review the programs at time of the users own choosing (abstract, figures 11-12).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Semenzato to include a video capture board and TV tuner in a user's PC as taught by Hullinger, so that a user may access the competitiveness of different broadcasters in the area and review the programs at time of the users own choosing.

The combination of Semenzato and Hullinger fails to disclose shutting down a computer peripheral when a crash is detected.

Safadi discloses a computing device which performs periodic background checks of the software object memory, finger print, bios, operating system etc, against pre-calculated and protected values for each, if the check fails the computing devices are shutdown (column 9, lines 5-64) in order to prohibit unauthorized access of content.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Semenzato and Hullinger to utilize the error and crash detection features of Safadi to prohibit unauthorized access to content..

3. Claims 3, 10, and 15, rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,903,728 to Semenzato in view of U.S. Patent 6,256,393 to Safadi and U.S. Patent 6,295,092 to Hullinger in further view of U.S. Patent 5,440,726 to Fuchs.

Regarding claims 3, 10, and 15, Semenzato discloses a method for accessing a video stream via a web browser with a video player plugin, the browser and plugin are run as two separate processes with the plugin retrieving and playing video streams from a video server, if the plugin crashes, access is maintained to the video stream as the connection data is saved in order to be made available to the next created instance of the plugin (column 7, line 35-column 8, line 43, column 9, lines 4-45).

The combination of Semenzato, Safadi and Hullinger does not disclose the monitoring of an exception handler to detect a crash.

Fuchs discloses a system which monitors errors in an application via watchdog, it then rolls back to various checkpoints in the processes and reconstructs the data from where the exception occurred in order to restore the original state of the application (column 7, line 40-column 8, line 16, column 9, lines 11 -36).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Semenzato, Safadi and Hullinger to monitor an exception handler as taught by Fuchs in order to allow rapid recovery of a crashed application so that the crash and restoration of an application would be transparent to the user.

4. Claims 28, 29, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,903,728 to Semenzato in view of U.S. Patent 6,404,975-B1 to Bopardikar.

Regarding claims 28-29 and 35, Semenzato discloses a method for accessing a video stream comprising:

In response to a first application (plugin) which requests video, initializing the video stream from a video server (column 7, lines 36-43),

If the first application crashes maintaining access to the video stream for a second application (web browser) through the video server (column 8, lines 17-21, column 9, lines 12-20, column 10, lines 5-18, plugin body 114B saves in persistent memory and data in which plugin body 114B may invoke in subsequent invocations).

Semenzato fails to disclose directing the server to release the video stack.

Bopardikar discloses a video storage system which uses data striping across multiple hard disks to store video, when a failure occurs, the video stack is shut down in order for a healing procedure to be preformed, to remedy the problem and prevent the corruption of data (column 5, lines 22-49, column 26, line 23-column 27, line 25).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Semenzato to shut down the video stack in response to a crash as taught by Bopardikar in order to prevent the corruption of the video data.

5. Claims 7, 11, 19-21, 23-25, 27, 33 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,903,728 to Semenzato in view of U.S.

Patent 6,256,393 to Safadi and U.S. Patent 6,295,092 to Hullinger in further view of U.S. Patent 6,404,975-B1 to Bopardikar.

Regarding claims 7, 11, 19, 20, 27, 33 and 36-37, Semenzato discloses detecting when a crash occurs.

The combination of Semenzato, Safadi and Hullinger does not disclose shutting down a video stack when a crash is detected.

Bopardikar discloses a video storage system which uses data striping across multiple hard disks to store video, when a failure occurs, the video stack is shut down in order for a healing procedure to be preformed, to remedy the problem and prevent the corruption of data (column 5, lines 22-49, column 26, line 23-column 27, line 25).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Semenzato, Safadi to shut down the video stack in response to a crash as taught by Bopardikar in order to prevent the corruption of the video data.

Regarding claim 21 and 23-24 Semenzato discloses a method for accessing a video stream comprising:

When a first application (plugin) requests video, initializing the video stream from a video server (column 7, lines 36-43),

Providing the video stream for the first application ((column 7, lines 36-43, column 9, lines 7-21),

Monitoring to detect if the first application crashes while receiving the video stream (status messages between the first and second applications, column 7, lines 20-23, column 8, lines 3-43),

If the first application crashes maintaining access to the video stream for a second application (web browser) through the video server (column 8, lines 17-21, column 9, lines 12-20, column 10, lines 5-18, plugin body 114B saves in persistent memory and data in which plugin body 114B may invoke in subsequent invocations).

Semenzato fails to disclose shutting down a television capture card when a crash is detected.

Hullinger discloses a personal computer which includes a TV tuner and video capture card which compress broadcast video into MPEG 1 video streams (column 3, lines 5-46) this data is then transmitted to a server 20 along with Nielsen ratings (column 3, lines 46-column 4, line 2) so that a user may access the competitiveness of different broadcasters in the area and review the programs at time of the users own choosing (abstract, figures 11-12).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Semenzato to include a video capture board in a user's PC as taught by Hullinger, so that a user may access the competitiveness of different broadcasters in the area and review the programs at time of the users own choosing.

The combination of Semenzato and Hullinger fails to disclose shutting down a computer peripheral and video stack when a crash is detected.

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Safadi discloses a computing device which performs periodic background checks of the software object memory, finger print, bios, operating system etc, against pre-calculated and protected values for each, if the check fails the computing devices are shutdown (column 9, lines 5-64) in order to prohibit unauthorized access of content.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Semenzato and Hullinger to utilize the error and crash detection features of Safadi to prohibit unauthorized access to content.

The combination of Semenzato, Safadi and Hullinger does not disclose shutting down a video stack when a crash is detected.

Bopardikar discloses a video storage system which uses data striping across multiple hard disks to store video, when a failure occurs, the video stack is shut down in order for a healing procedure to be preformed, to remedy the problem and prevent the corruption of data (column 5, lines 22-49, column 26, line 23-column 27, line 25).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Semenzato, Hullinger and Safadi to shut down the video stack in response to a crash as taught by Bopardikar in order to prevent the corruption of the video data.

Regarding claim 25, Semenzato discloses a computer system (figure 1)comprising:

A processor 102,

Memory 104 coupled to said processor storing programs which cause a computer to:

Connect an application (plugin), which requests video using a window (column 7, lines 36-43, column 9, lines 7-21) that operates in a separate address space from the application (browser, Figures 2C and 3, column 6, lines 43-64),

Monitoring to detect if the first application crashes while receiving the video stream (status messages between the first and second applications, column 7, lines 20-23, column 8, lines 3-43),

If the first application crashes maintaining access to the video stream for a second application (web browser) through the video server (column 8, lines 17-21, column 9, lines 12-20, column 10, lines 5-18, plugin body 114B saves in persistent memory and data in which plugin body 114B may invoke in subsequent invocations).

Semenzato fails to disclose shutting down a television capture card when a crash is detected, shutting down a video stack, and the use of a TV tuner card coupled to a processor.

Hullinger discloses a personal computer which includes a TV tuner and video capture card which compress broadcast video into MPEG 1 video streams (column 3, lines 5-46) this data is then transmitted to a server 20 along with Nielsen ratings (column 3, lines 46-column 4, line 2) so that a user may access the competitiveness of different broadcasters in the area and review the programs at time of the users own choosing (abstract, figures 11-12).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Semenzato to include a video capture board in a user's PC as taught by Hullinger, so that a user may access the competitiveness of different broadcasters in the area and review the programs at time of the users own choosing.

The combination of Semenzato and Hullinger fails to disclose shutting down a computer peripheral when a crash is detected and shutting down a video stack.

Safadi discloses a computing device which performs periodic background checks of the software object memory, finger print, bios, operating system etc, against pre-calculated and protected values for each, if the check fails the computing devices are shutdown (column 9, lines 5-64) in order to prohibit unauthorized access of content.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Semenzato and Hullinger to utilize the error and crash detection features of Safadi to prohibit unauthorized access to content.

The combination of Semenzato, Safadi and Hullinger does not disclose shutting down a video stack when a crash is detected.

Bopardikar discloses a video storage system which uses data striping across multiple hard disks to store video, when a failure occurs, the video stack is shut down in order for a healing procedure to be preformed, to remedy the problem and prevent the corruption of data (column 5, lines 22-49, column 26, line 23-column 27, line 25).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Semenzato, Hullinger and Safadi to shut down

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the video stack in response to a crash as taught by Bopardikar in order to prevent the corruption of the video data.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,903,728 to Semenzato in view of U.S. Patent 6,256,393 to Safadi and U.S. Patent 6,295,092 to Hullinger in further view of U.S. Patent 6,404,975-B1 to Bopardikar in further view of U.S. Patent 5,440,726 to Fuchs.

Regarding claim 22, Semenzato discloses a method for accessing a video stream via a web browser with a video player plugin, the browser and plugin are run as two separate processes with the plugin retrieving and playing video streams from a video server, if the plugin crashes, access is maintained to the video stream as the connection data is saved in order to be made available to the next created instance of the plugin (column 7, line 35-column 8, line 43, column 9, lines 4-45).

The combination of Semenzato, Safadi, Hullinger and Bopardikar does not disclose the monitoring of an exception handler to detect a crash.

Fuchs discloses a system which monitors errors in an application via a watchdog, it then rolls back to various checkpoints in the processes and reconstructs the data from where the exception occurred in order to restore the original state of the application (column 7, line 40-column 8, line 16, column 9, lines 11 -36).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Semenzato, Safadi and Hullinger to monitor an

exception handler as taught by Fuchs in order to allow rapid recovery of a crashed application so that the crash and restoration of an application would be transparent to the user.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HBL


Hunter B. Lossberry
Patent Examiner
Art Unit 2623